IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2033 OF 2005

Ramchandra Bharmu Patil& Anr ...Petitioners

Versus

Dhondiba Ranba Kamble & Ors. ...Respondents

.....

Mr. G.M. Salunkhe, counsel for Petitioners

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 4TH APRIL, 2005

P. C.:-

1. Heard Mr. Salunkhe, the learned counsel for the petitioners who are the plaintiffs in Civil Suit No. 106/1992. It appears that an application at Exh.115 came to be filed for amendment on 10.9.2003 under Order VI Rule 17 of C.P.C. and the said application has been rejected by the learned C.J.J.D. at Chandgad on 17.1.2005 and hence, this petition.

2. After hearing both the parties, the trial court recorded the findings that the proposed amendment would change the original case of the plaintiffs, which would add additional defendants and it would cause prejudice to the defendants. The trial Court noted that the suit was filed on 10.8.1992, the sale deed was dated 11.5.1992 which was the subject matter

of challenge in suit and the amendment application was moved almost after 12 years. The evidence of the plaintiff No.1 and 3 witnesses was already recorded and the proposed amendment was not in respect of the events which had taken place pendete lite. In addition, there was no relief claimed against the proposed defendant Nos. 6 to 9.

3. The reasoning given by the Court below in rejecting the application cannot be held to be perverse or manifestly erroneous and therefore, the challenge to the said order is devoid of merits and does not call for interference in this writ petition under Article 227 of the Constitution. The petition is rejected summarily.